

### **REMARKS**

This responds to the Office Action mailed on December 7, 2007.

Claims 1, 8, 15, 20, and 25 are amended; claims 6, 11, and 28 are were previously canceled, without prejudice to the Applicant; as a result, claims 1-5, 7-10, and 12-27 are now pending in this application.

The amendments are being made for purposes of overcoming informality rejections to the claims and for purposes of gaining allowance. Therefore, Applicant believes that entry of the amendments is appropriate and respectfully requests an indication of the same.

Example support for the amendments may be found in a variety of locations throughout the original filed specification. By way of example, only the Examiner's attention is directed to the original filed specification paragraphs 24, 32-33, 40, and 46-47.

#### *§112 Rejection of the Claims*

Claims 1, 8, 15 and 20 were rejected under 35 USC § 112, first paragraph, as failing to comply with the written description requirement. The language that the Examiner indicated was offending and the suggested changes offered by the Examiner to remedy these rejections have been made by way of amendment above to independent claims 1, 8, 15, and 20.

#### *§103 Rejection of the Claims*

Claims 1-5, 8-10 and 12-27 were rejected under 35 USC § 103(a) as being unpatentable over Katsumi (U.S. 6,369,846) in view of Nefian (U.S. 2003/0212557). It is of course fundamental that in order to sustain an obviousness rejection that each and every claim limitation must be taught or suggested in the proposed combination of references.

The Nefian reference is supplied by the Examiner to assert that the audio and video are evaluated in response to time slices. The problem is the Nefian references uses time to merge video and audio back together and uses complicated techniques. Nefian is directed to increasing the reliability of "speech recognition" by also evaluating facial queues in a video stream.

So, Nefian is not concerned with when a speaker is speaking and when a speaker is not speaking; rather, Nefian is concerned with trying to better understand the content of speech and

pronunciation of speech of an already known speaker that is speaking. Moreover, Nefian does not evaluate time slices of audio in connection with video for purposes of determining when a speaker is speaking and when the speaker is not speaking. Applicant has amended the claims to now clearly distinguish over what Nefian is doing versus what Applicant has done.

Accordingly, Applicant asserts that the rejections of record should be withdrawn and the claims allowed. Applicant respectfully requests an indication of the same.

Claims 7 and 12 were also rejected under 35 USC § 103(a) as being unpatentable over Katsumi in view of Nefian and further in view of Van Schyndel (U.S. 5,940,118). Claim 7 is dependent from amended independent claim 1 and claim 12 is dependent from amended independent claim 8; thus, for the amendments and remarks supplied above with reference to independent claims 1 and 8, the rejections of claims 7 and 12 should be withdrawn and these claims allowed. Applicant respectfully requests an indication of the same.

### **RESERVATION OF RIGHTS**

In the interest of clarity and brevity, Applicant may not have addressed every assertion made in the Office Action. Applicant's silence regarding any such assertion does not constitute any admission or acquiescence. Applicant reserves all rights not exercised in connection with this response, such as the right to challenge or rebut any tacit or explicit characterization of any reference or of any of the present claims, the right to challenge or rebut any asserted factual or legal basis of any of the rejections, the right to swear behind any cited reference such as provided under 37 C.F.R. § 1.131 or otherwise, or the right to assert co-ownership of any cited reference. Applicant does not admit that any of the cited references or any other references of record are relevant to the present claims, or that they constitute prior art. To the extent that any rejection or assertion is based upon the Examiner's personal knowledge, rather than any objective evidence of record as manifested by a cited prior art reference, Applicant timely objects to such reliance on Official Notice, and reserves all rights to request that the Examiner provide a reference or affidavit in support of such assertion, as required by MPEP § 2144.03. Applicant reserves all rights to pursue any cancelled claims in a subsequent patent application claiming the benefit of

priority of the present patent application, and to request rejoinder of any withdrawn claim, as required by MPEP § 821.04.

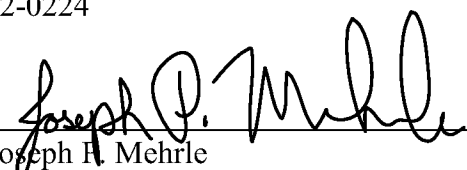
### **CONCLUSION**

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at (513) 942-0224 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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